



Draft

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Background

Indian tribes, as governments, occupy an important place in our governmental system. Different from a minority or racial classification, Indian tribes are separate and independent political entities. They are sovereign nations possessing inherent governmental authority and powers.

Early Supreme Court decisions developed the nature of the legal relationship between the Indian tribes and the United States and the unique status of tribal governments. The Supreme Court held in Cherokee Nation v. Georgia, 30 U.S. (5 Pet.) 1 (1831) that Indian tribes were distinct, self-governing legal entities and in Worcester v. Georgia, 32 U.S. (6 Pet.) 515 (1832) that state laws did not apply to Indian lands.

This unique legal status of Indian tribes has been reserved in treaties, found in the U.S. Constitution, affirmed by rulings of the U.S. Supreme Court, underscored by Acts of Congress, affirmed and reaffirmed in federal policy by every president since President Nixon.

History

To understand how tribes fit into our governmental structure, it is important to understand the legal history of how we dealt with tribes before and after our independence and drafting of the Constitution.

Tribes, like states, are recognized as governments (not non-profit organizations, special interest groups and or ethnic minorities). They possess all the powers of governance of sovereign nations except those that have been withdrawn by treaty or by the U.S. Congress. Along with the federal and state governments, they occupy the position of the third sovereign.

The sovereign status of tribes was clearly evidenced by the treaty-making process. Over 800 treaties were negotiated, 400 treaties were ratified and 366 treaties are still in force today. Six (6) treaties were negotiated with tribes in

[USC 25](#)

[RCW 74.08A.040](#)

[WAC 388-310-1900](#)

What is a Treaty?

The U.S. Supreme Court said, "A treaty, including one between the United States and an Indian tribe, is essentially a contract between two sovereign nations."

[Click Here](#) to take a look at treaties involving tribes in Washington State.

What does the U.S. Constitution say about Treaties?

[Article I, Section 8, Clause 3](#)

[Article II, Section 2, Clause 2](#)

[Article VI, Section 2](#)

"The most basic principles of Indian law...lawfully vested in an Indian tribe are not, in general, delegated powers granted by express acts of Congress, but inherent powers of a limited sovereignty which has never been extinguished."

- Felix S. Cohen

Washington State.

Prior to the independence of the United States, all nations dealt with Indian tribes on a nation-to-nation basis recognizing tribal sovereignty. Treaties were negotiated with several countries, including the Dutch, Spanish, French and the English.

Treaties (or contracts among nations) were entered into for a variety of reasons. For example, there were treaties of peace and friendship, trade or commercial dealings, removal, jurisdiction, and dependence of tribes on the United States. The most commonly known reason was for cessions of land. Indian nations ceded (transferred ownership) over two billion acres of land in exchange for reserved rights (fishing, hunting and gathering), monetary payments, services (education and medical benefits) and a guarantee and respect for the tribes right to govern the lands and resources they reserved for future generations.

In the Constitution the President was given the power to make treaties and all treaties made, or which shall be made shall be the supreme law of the land.

Age has not invalidated the treaties any more than it has invalidated the Constitution, which recognizes them as "the supreme law of the land."

It is important to understand that under the treaties, it was not a grant of rights to the tribes but a grant of rights from the tribe to the U.S. government and a reservation of rights not granted.

What are Examples of Inherent Powers of Tribal Self-government?

Tribes possess the right to form their own government, to make and enforce their own laws, to tax, to establish membership, to license and regulate activities, to zone, and to exclude persons from tribal lands, independently from the neighboring state government.

Limitations are few, and include the same limitations applicable to states; e.g., cannot make war, engage in foreign relations, or coin money.

Who Makes up Tribal Governments?

Tribal governments are made up of individuals who are citizens of the United States, citizens of the State in which they reside and also citizens or "members" of their own tribes. These individuals are usually described as being enrolled in a tribe. Eligibility for membership or enrollment is based on the laws of each respective tribe. Generally speaking, it is determined by a certain blood quantum, being a descendant of a tribal member or place of birth.

"Let us put our minds together and see what kind of life we can make for our children."

**- Tatanka Iyotanka
(Sitting Bull)**

[Click here](#) for answers to basic questions about tribes and American Indians.

Click Here for a [Map](#) of the 29 federally recognized tribes in Washington State by DSHS Region

Centennial Accord

For more information about government-to-government and tribal sovereignty, [Click here](#).

"The State of Washington seeks to strengthen the relationship with the federally recognized tribal governments to promote and enhance tribal self-sufficiency."

**-Governor Gary Locke
1997 Proclamation**

DSHS Administrative Policy 7.01, American Indian Policy

Working in partnership with tribes is consistent with stated principles of the Accord in promoting and enhancing tribal self-sufficiency and at the same time assisting tribal

Individual enrolled tribal members may be entitled to certain rights and benefits under tribal law or federal law. These rights are based on treaties, executive orders, and federal legislation not because they are members of a minority class but because of their status as tribal members.

Tribes operate under their own governmental systems. Many tribes have executive, legislative and judicial arms of government. Many have adopted their own constitutions and some still have traditional systems of governments. The chief executive of the tribe is called the tribal chairperson, similar to our governor or the president. The chair resides over the governing body called the tribal council, which performs the legislative functions, those duties delegated by the general membership. Most tribes require a referendum of the membership to enact laws and make changes to their constitution.

In Washington State there are twenty-nine (29) federally recognized tribes, several non-federally recognized tribes and Indian organizations. Washington ranks in the top ten in terms of significant Indian population and significant reservation land base. Over 50% of tribal members still live on or near reservations.

What is the CENTENNIAL ACCORD?

This Accord recognizes and respects the sovereignty of the Tribes and calls for a government-to-government approach to dealing with the tribes. Governor Booth Gardner and most of the Tribal Chairs of the Washington tribes signed the Centennial Accord in 1989.

Since 1989, each Governor has signed a Proclamation reaffirming the fundamental principles and integrity of government-to-government relations established by the Centennial Accord. The Proclamation proclaims that the state acknowledges that the tribes have a historical relationship with reserved rights defined by treaties, federal statutes and executive orders of the President. It directs its agencies to develop policy consistent with the stated principles and that the principles of the Accord shall guide Washington State's policy in relations with the federally recognized tribal governments.

What is DSHS Administrative Policy 7.01?

This is the department's American Indian Policy. The policy outlines the commitment and process for consulting with tribes and tribal organizations in the planning and service delivery to Indian governments and communities. DSHS Agencies consult with Indian tribes and Indian organizations in the development of biennial service plans along with an updated report on the status of these plans. The policy provides the opportunity for involvement and meaningful input in the department relations, plans, budgets, policies, manuals, and operational procedures affecting American Indian people.

families in realizing their own self-sufficiency.

For more information see the [State Tribal Relations Unit \(STRU\) Website](#).

[Click Here](#) to take an iESA Quiz on Tribal Resources and Indian Tribes in Washington State.

Do you know there are Tribal Liaisons who can assist you with Tribal issues on cases?

[CSD Tribal Liaisons](#)

[DCS Tribal Liaisons](#)

[DCCEL Tribal Liaisons](#)

Biennial service plans and progress reports must be developed at headquarter and regional levels.

What is the Role of the ESA State Tribal Relations Unit (STRU)?

In 1997, the Economic Services Administration (ESA) established a State Tribal Relations Unit (STRU) to assist ESA management and staff in working in partnership with Tribal Nations on a government-to-government basis, improve state/tribal relations and promote a policy consultation process. STRU staff assists ESA in meeting our commitment to the Centennial Accord and DSHS Administrative Policy 7.01, and strives to bring about successful child support and TANF programs for Washington State Tribes.

How Does WorkFirst Serve Indian Tribes and Indian Clients?

- Consult and develop policy with Indian tribes as a WorkFirst partner
- Provide Equitable Access to services for tribal clients
- Coordinate with tribes which run their own Tribal TANF program
- Contract with tribes to provide employment and training services
- Develop additional participation activities for tribal members including services provided by tribes
- Coordinate eligibility for child care with tribal clients

Resources

Related WorkFirst Handbook Sections

- [Introducing Participants to WorkFirst](#)

Other Resources

- [State Tribal Relations Unit Intranet Website](#)
- [DCS Tribal Relations Internet Website](#)
- [Washington State Tribal Directory](#)